

AMENDED IN SENATE AUGUST 20, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY APRIL 23, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2109

Introduced by Assembly Member Pan
(Principal coauthor: Senator Wolk)
(Coauthor: Assembly Member Fuentes)

February 23, 2012

An act to amend Section 120365 of the Health and Safety Code, relating to communicable disease.

LEGISLATIVE COUNSEL'S DIGEST

AB 2109, as amended, Pan. Communicable disease: immunization exemption.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases, as specified.

Existing law exempts a person from the above-described immunization requirement if the parent or guardian or other specified persons file with the governing authority a letter or affidavit stating that the immunization is contrary to his or her beliefs.

This bill would instead require this letter or affidavit to document which required immunizations have been given, and which have not been given on the basis that they are contrary to the parent or guardian's

or other specified person's beliefs. The bill would require, on and after January 1, 2014, the letter or affidavit to be accompanied by a form prescribed by the State Department of Public Health that includes a signed attestation from a health care practitioner, as defined, that indicates that the health care practitioner provided the parent or guardian of the person, the adult who has assumed responsibility for the care and custody of the person, or the person, if an emancipated minor, who is subject to the immunization requirements with information regarding the benefits and risks of the immunization and the health risks of specified communicable diseases. The bill would require the form to include a written statement by the parent, guardian, other specified persons, or person, if an emancipated minor, that indicates that he or she received the information from the health care practitioner.

By imposing new duties upon local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 120365 of the Health and Safety Code
- 2 is amended to read:
- 3 120365. (a) Immunization of a person shall not be required
- 4 for admission to a school or other institution listed in Section
- 5 120335 if the parent or guardian or adult who has assumed
- 6 responsibility for his or her care and custody in the case of a minor,
- 7 or the person seeking admission if an emancipated minor, files
- 8 with the governing authority a letter or affidavit that documents
- 9 which immunizations required by Section 120355 have been given,
- 10 and which immunizations have not been given on the basis that
- 11 they are contrary to his or her beliefs.
- 12 (b) On and after January 1, 2014, a form prescribed by the State
- 13 Department of Public Health shall accompany the letter or affidavit

1 filed pursuant to subdivision (a). The form shall include both of
2 the following:

3 (1) A signed attestation from the health care practitioner that
4 indicates that the health care practitioner provided the parent or
5 guardian of the person who is subject to the immunization
6 requirements of this chapter, the adult who has assumed
7 responsibility for the care and custody of the person, or the person
8 if an emancipated minor, with information regarding the benefits
9 and risks of the immunization and the health risks of the
10 communicable diseases listed in Section 120335 to the person and
11 to the community. This attestation shall be signed not more than
12 six months prior to the date when the person first becomes subject
13 to the immunization requirement for which exemption is being
14 sought.

15 (2) A written statement signed by the parent or guardian of the
16 person who is subject to the immunization requirements of this
17 chapter, the adult who has assumed responsibility for the care and
18 custody of the person, or the person if an emancipated minor, that
19 indicates that the signer has received the information provided by
20 the health care practitioner pursuant to paragraph (1). This
21 statement shall be signed not more than six months prior to the
22 date when the person first becomes subject to the immunization
23 requirements as a condition of admittance to a school or institution
24 pursuant to Section 120335.

25 (c) The following shall be accepted in lieu of the original form:

26 (1) A photocopy of the signed form.

27 (2) A letter signed by a health care practitioner that includes all
28 information and attestations included on the form.

29 (d) Issuance and revision of the form shall be exempt from the
30 rulemaking provisions of the Administrative Procedure Act
31 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code).

33 (e) When there is good cause to believe that the person has been
34 exposed to one of the communicable diseases listed in subdivision
35 (a) of Section 120325, that person may be temporarily excluded
36 from the school or institution until the local health officer is
37 satisfied that the person is no longer at risk of developing the
38 disease.

39 (f) For purposes of this section, "health care practitioner" means
40 any of the following:

1 (1) A physician and surgeon, licensed pursuant to Section 2050
2 of the Business and Professions Code.

3 (2) A nurse practitioner who is authorized to furnish drugs
4 pursuant to Section 2836.1 of the Business and Professions Code.

5 (3) A physician assistant who is authorized to administer or
6 provide medication pursuant to Section 3502.1 of the Business
7 and Professions Code.

8 (4) An osteopathic physician and surgeon, as defined in the
9 Osteopathic Initiative Act.

10 (5) A naturopathic doctor who is authorized to furnish or order
11 drugs under a physician and surgeon's supervision pursuant to
12 Section 3640.5 of the Business and Professions Code.

13 (6) *A credentialed school nurse, as described in Section 49426*
14 *of the Education Code.*

15 SEC. 2. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.